

Practice Brief 5: MOUs and Authentic Partnership

Native Child Advocacy Resource Center

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Available data pertaining to CAC services in tribal communities suggest that American Indian/Alaska Native (AI/AN) children are significantly underserved by accredited CACs.

AI/AN children experience maltreatment at rates exceeding all other racial and ethnic groups in the U.S.¹ Their rate of maltreatment on a national level is more than double that of white children, and in some states their rate of maltreatment is as high as nine times that of white children.

If the CAC movement were fully addressing the needs of AI/AN children, we would expect to see AI/AN children not simply overrepresented in the CAC service population, but overrepresented to a degree matching their overrepresentation in the maltreatment data. Instead, according to NCA data, AI/AN children are not overrepresented in the CAC service population: they accounted for 1.9% of children served by accredited CACs in the U.S. in 2021², roughly in line with their share of the national population (1.7% of children 0-17 according to 2020 U.S. Census Bureau estimates)³. While NCA and HHS data vary from state to state, available information from 2021 illustrate that in states where AI/AN children were significantly overrepresented in CAC service populations, they were not overrepresented to a degree matching their rates of victimization.

To our knowledge, no studies exist that identify the barriers to AI/AN access to accredited CAC services. Many possible barriers likely lie outside the control of the CAC movement to address. For example, Tribal lands are often sparsely populated and located far away from services, creating multiple logistical issues that might interfere with access. Additionally, jurisdictional complexities may interfere with the CAC referral process or otherwise complicate partnerships with CPS and law enforcement personnel. Further, an unknown number of Tribes operate their own CACs without pursuing accreditation, suggesting barriers that may have to do with the accreditation process rather than with local conditions.

One barrier that is frequently reported anecdotally, and that individual CACs do have some power to address, is a lack of trust, or a lack of authentic partnership, between Tribes and CACs. This lack of trust is often rooted in interrelated concerns about historical context, Tribal sovereignty in child and family services, and/or the absence of culturally responsive services. One measure of the CAC movement's negotiation of these issues is the prevalence of Tribal/CAC MOUs.

CAC/Tribal MOU Implementation: Prevalence and Characteristics

According to NCA, as of June 2021, 159 accredited CACs served 425 tribal communities, but fewer than one-third of these CACs reporting tribal collaboration report having MOUs in place with tribes⁴. In the view of NCARC, self-reports of Tribal collaboration are contradicted by the absence of MOUs with Tribes.

In early 2022, seeking to learn more about effective CAC/Tribal MOU implementation, NCARC contacted a sample of non-Tribal CACs reporting MOUs with Tribes. We observed that a large majority of CACs reporting Tribal MOUs used the same MOU with Tribes that they used with other partners. We also observed that in some cases, CACs reporting MOUs had at one point implemented MOUs with Tribes, but those MOUs had not been updated, were not current, and/or could not be located. While we make no claims that the sample we contacted are representative of all non-Tribal CACs that work with Tribes, we believe that accredited CACs' self-reports of MOU implementation overestimate the actual prevalence of current CAC/Tribal MOUs and are not an accurate indication of the level of authentic Tribal engagement within the movement.

We also observed effective elements in some of the CAC/Tribal MOUs that were shared with us. One CAC invited each Tribal nation they served to provide an addendum to their universal MOU in order to articulate information unique to partnering tribal communities. This allowed the CAC to document variations in different communities' service systems (for example, one tribe had its own social services department, while others relied on Bureau of Indian Affairs services), enabling tailored engagement strategies depending on the Tribal identity of the children and family served. This CAC also revised their universal MOU to address inconsistencies in terminology used by the county versus tribes, incorporated language on the Indian Child Welfare Act, and included clear references to tribally enrolled children throughout the document—each of which demonstrates a clear understanding of Tribal jurisdiction in these cases and shows support for Tribal sovereignty.

Recommendations

We consider these findings preliminary and plan to continue our outreach to CACs to fill in gaps in understanding and develop a more comprehensive view of the state of CAC/Tribal MOU implementation. In spite of the preliminary nature of our findings and the data gaps that prevent a fuller understanding of the situation, we can make some recommendations based upon what we currently know about the status of CAC/Tribal MOU implementation and characteristics.

- Universal Tribal MOU implementation should be the goal of the CAC movement. Local conditions may prevent or delay authentic partnerships in some communities, but the aspiration for every accredited CAC that serves AI/AN children should be to develop and maintain a positive collaborative relationship with the relevant Tribal leaders and Tribal agency staff and to formalize processes and areas of collaboration in MOUs.

The lack of an MOU with local Tribes leaves a CAC's ability to meet the needs of Tribal children open to question. Sovereign Tribes have the uncontested right to determine what is in the best interest of their children and families, so a CAC that does not consult with Tribal experts or agency personnel may appear to be assuming the right to decide these matters itself.

One potential result of this dynamic is that Tribal agencies and leaders may choose not to refer children to the CAC. From the perspective of a CAC, this refusal to refer children may appear to increase those children's risk of negative case outcomes. From a Tribal perspective, a CAC that does not respect Tribal sovereignty or seek out the input of Tribal stakeholders is a clear threat to the wellbeing of its children, families, and communities.

Tribes have learned over the course of hundreds of years that many of the worst abuses inflicted on their children and families have been committed in the name of Tribal children's best interests, as determined by outsiders. CAC professionals should take this history seriously and endeavor to change the narrative between Tribes and outsiders.

- CACs should prioritize the customization of their MOUs with Tribes, understanding that Tribes are not simply one among many agency partners but sovereign nations with the legal authority to determine what is best for their member children and families. Use of the same MOU provided to non-Tribal partners is not ideal and does not reflect respect for a Tribe's sovereignty.

Instead, CACs should use MOUs to formalize an authentic engagement with the Tribe as a sovereign nation; to address jurisdictional complexities and formalize a role on MDTs for relevant Tribal or federal agency staff; to document particularities of local service systems and the resulting strategies for supporting Tribal children; to establish standards for culturally responsive services; and to accommodate any other needs that may be unique to specific Tribes.

An appropriate level of tailoring requires authentic partnership and Tribes' corresponding willingness to participate in the process of MOU development.

- Finally, CACs should work with Tribal stakeholders, if possible, to win Tribal Council approval of their MOUs—the threshold for any true partnership with a Tribe.

¹ U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2022). *Child Maltreatment 2020*. <https://www.acf.hhs.gov/cb/data-research/child-maltreatment>

² National Children’s Alliance. (2022). *2021 CAC statistics*. <https://www.nationalchildrensalliance.org/cac-statistics/>

³ U.S. Census Bureau. (2020). *POP3: Percentage of U.S. children ages 0-17 by race and Hispanic origin, 1980-2021 and projected 2021-2050*. ChildStats. <https://www.childstats.gov/americaschildren/tables/pop3.asp>

⁴ National Children’s Alliance. (2022). Interactive National Map: 2021 Coverage of Tribal Areas. https://maps.esp.tl/maps/2021-NCA-Member-CACs-Serving-Federally-Recognized-Tribes/pages/map.jsp?geoMapId=1041278&TENANT_ID=132538